1952

K

**File No.** B. Village Panch. 52

Legal Deptt

B BRANCH

**Subject:—** A Bill to amend the Bombay Village Panchayats Act, 1933

L.A Bill No. XVIII of 1952

Bom. Act No XIV of 1952

P. 14
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B Village Panch.
52

Office of the R.L.A.

The requisite draft Bill is sent herewith.

2. It is necessary to save the bonafide acts committed by the members of the village panchayat whose election has been declared invalid under section 9(1) of the Bombay villages Panchayats Act, 1933, prior to such declaration and to provide for the disposal of suits, cases and proceedings, pending before a nyaya panchayat elected by such panchayat. The draft Bill provides accordingly.

3. The subject-matter of the Bill falls under entry 5 in List II in the Seventh Schedule to the Constitution of India. As the Bill does not relate to any matter enumerated in the Concurrent Legislative List, it will not be necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India. The Bill does not require any sanction or recommendation under the Constitution.

4. The present proposal is that where a Collector declare the election of all members of a panchayat at a general election to be invalid on the grounds specified in section 9(1) of the Act, all the powers and duties of the panchayat shall be exercised by such person or persons as the State Government may appoint till the reconstitution of the panchayat. As a consequence of this proposal the nyaya panchayat constituted out of such invalid panchayat also becomes deprived of its judicial powers and will have to be dissolved, and the provision contained in the Act and which are to come into force on the dissolution of a nyaya panchayat will have to be made applicable also to such dissolution. But it appears from the provisions of the Act that there are two distinct provisions providing for the consequences of the dissolution of a nyaya panchayat. One is contained in section 106(2) which provides that suits, cases and proceedings pending before the naya panchayat shall be instituted freshly in a civil court and in a Magistrate's Court respectively.

The other provision is contained in section 58A which provides that a nyaya panchayat newly constituted on the dissolution of another nyaya panchayat shall hear and dispose of all suits, cases, proceedings, etc. pending and the date of the dissolution. This latter provision was inserted under section 58A, which in its turn, was inserted newly in the year 1939 by the Bom. Act XVIII of 1939. In that year, the Panchayat Act was extensively amended. It appears from the General Department File No S. 180 IV c/1939 that one of the proposals there was to abolish village bench and to give judicial powers to a village panchayat itself as a whole (para 3, page 123, para (6), page 143 and p 179 of G.D. file). The R,L.A's obserbations on the proposals are at pages 229-233 of the General Department fil From paragraph 3 of the R.L.A's observations against cl 5 it appears that the question of the dissolution of a panchayat on the failure of an electorate to elect the required number of members at a general election was also then under consideration (see also p. 237, G.D file). All these proposals appear to have been dropped subsequently. (Please see draft Bill at pages 251-315). From General Department, Under Secretary's note at page 319 it appears that this Bill underwent considerable changes and a fresh draft Bill was supplied by the R.L.A.(page 323 G.D. file) . Under clause 29 of that Bill (slip K, G.D. file) section 58A came to be inserted. (Theprovisions of this section were appropriate upto particular stage as shown below).

5. Section 106(2) already provides that suits, cases or proceedings pending before a nyaya panchayat at the time of its dissolution (as a consequece of the dissolution of a village panchayat) shall be instituted freshly in a civil court and in the court of a Magistrate respect. ively; and there is nothing left to be done by a newly constituted nyaya panchayat by way of hearing and disposing of suits, etc. on the dissplution of the previous nyaya

Panchayat under section 106. The words "or a nayaya panchayat newly consitituted on the dissolution of another nyaya panchayat under section 106" and the words "or at the date of such dissolution" occurring in section 58A may be deleted therefrom so as to be consistent with section 106(2). These words were necessary then in view of the provisions of section 106 which were proposed to be substituted under clause 29(General Department file, page 309). But this proposal was dropped afterwards (page 321) . The L.S.G. & P.H.D. may consider whether section 58A may also be amended as suggested above.

Sd/- J.R.Dhurandhar

O.C. 12/11

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 17936, dated the 12th November, 1951.

Mjr/4/7

5 Cs.

No. 275-L 10

Legal Department
Council Hall, Poona, 30th July 1952.

From

Shri J.R.Dhurandhar,
Additional Secretary to
the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Village Panchayats (Amendment) Bill, 1952

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Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of the Governor the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1952, which was read for third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 28th June 1952 and the 17th July 1952, respectively.

2. The subject-matter of the Bill falls under entries 3,5 and 65 in List II in the Seventh Schedule, to the Constitution of India. It is not necessary to reserve the Bill for the Consideration of the President with reference to article 254 (2) or any other article of the Constitution of India.

3. The date on which the Governor's assent is given may kindly be entered in the endoreement.

4. I also forward herewith one copy of each of the items

| | | |
|---|---|---|
| 1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons. | : | Nos. 1, 2 and 4 |
| 2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Counci. | : | and |
| 3. Bill as read for the third time and passed by the Bombay Legislative Counci. | : | two |
| 4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 28th June 1952 and of the Bombay Legislative Council dated the 17th July 1952. | : | copies of item No. 3 |

of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully
Sd/- J.R.Dhurandhar,
30/7
Additional Secretary to Government,

o.c.

Copy forwarded with compliments to the Secretary to the Government of Bombay, Local Self Government & Public Health Department.

No. G.S. 2361

From

The Secretary to the Governor of Bombay

To

The Additional Secretary
to the Government of Bombay,
Legal Department.

Subject:- The Bombay Village Panchayats (Amendment) Bill, 1952

Raj Bhavan

Ganeshkhind ~~August~~,
Poona, 7, August, 1952

Sir,

With reference to your letter No. 275-L, dated July 30, 1952, I am directed to return herewith the authentic copy of the Bombay Village Panchayats(Amendment) Bill, 1952, with the Governor's assent signified thereon.

Yours faithfully,

Sd/- S-B-Kulkarni

Secretary to the Governor

Mjr/4/7

4 Cs.

Acts

Publication of the Bombay Village Panchayats (Amendment) Act, 1952

GOVERNMENT OF BOMBAY
Legal Department,
Resolution No. 337-L
Council Hall, Poona, 7th August 1952.

Letter to the Secretary to the Governor, No.275-L, dated the 30th July 1952.

Letter from the Secretary to the Governor, No.G.S.2361, dated the 2nd August 1952.

"With reference to your letter No 275-L, dated July 30, 1952, I am directed to return herewith the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1952, with the Governor's assent signified thereon."

RESOLUTION: The law should be published as Bombay Act No. XIV of 1952 in the Bombay Government Gazette dated the 8th August 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local Self Government and Public Health Department.

By order of the Governor of Bombay

Sd/- S.W.Dhurandhar
S.W.DHURANDHAR

Assistant Secretary to Government.

To

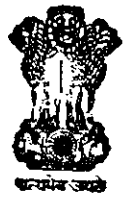
The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies fo the Act may be forwarded to the Legal Department and 10 copies to the Local Government and Public Health Department.)
The Local Self Government and Public Health Department ) with a
* The Examiner of Books and Publications ) copy of
The Bombay Legislature Department, ) the Act.
The Director of Publicity, Bombay,
The Liaison Officer for the Secretariat, Bombay

Mjr/4/7

* With four extra copies of the Act.

4 Cs.

Registered No. B-1



The

# Bombay Government Gazette

PUBLISHED BY AUTHORITY

THURSDAY, 5TH JUNE 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V

**[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]**

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—.

### L. A. BILL No. XVIII OF 1952.

*A Bill to amend the Bombay Village Panchayats Act, 1933.*

Bom. VI of 1933. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Bombay Village Panchayats (Amendment) Act, 1952.

Bom. VI of 1933. Insertion of new section 22A in Bom. VI of 1933. **2.** After section 22 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

Eligibility of certain members for re-election. "22A. A member of a panchayat whose appointment has been declared invalid under section 9A or whose office has become vacant under section 22 shall, if his disqualification or disability has ceased, be eligible for re-election."

Amendment of section 58A of Bom. VI of 1933. **3.** In section 58A of the said Act, the words and figures "or a *nyaya panchayat* newly constituted on the dissolution of another *nyaya panchayat* under section 106," and the words "or at the date of such dissolution" shall be deleted.

Amendment of section 99 of Bom. VI of 1933. **4.** In section 99 of the said Act, in sub-section (*1*), after the words "breach of the peace" the words "or is unlawful," shall be inserted.

Insertion of new section 106A in Bom. VI of 1933.

5. After section 106 of the said Act, the following section shall be inserted, namely :—

Powers and duties of panchayat or *nyaya panchayat* not validly constituted to be performed by person appointed by Government or by courts, as the case may be.

"106A. (*1*) (*a*) Notwithstanding anything contained in this Act or rules or bye-laws made thereunder, if at any time it shall appear to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the *Official Gazette*, cause all or any of the powers and duties of the panchayat to be exercised and performed by such person or persons, in such manner and for such period and subject to such conditions, as it may think fit.

(*b*) On the issue of such notification the *nyaya panchayat* already constituted out of such panchayat under sub-section (*1*) of section 37 shall be deemed to have been dissolved and the provisions of sub-section (*2*) of section 106 shall, so far as may be, apply in respect of suits, cases, proceedings or applications which may be pending before such *nyaya panchayat* on the date of the notification issued by the State Government under clause (*a*).

(*2*) All the powers and duties of the panchayat or *nyaya panchayat* exercised and performed *bona fide* till the date of the notification referred to in sub-section (*1*), by the persons who constituted such panchayat or *nyaya panchayat*, as the case may be, shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or called in question on the ground merely that they were not members of a validly constituted panchayat or *nyaya panchayat* and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts."

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## STATEMENT OF OBJECTS AND REASONS.

*Clause 2.*—It is proposed to clarify the position in the Bombay Village Panchayats Act, 1933, that a member of a village panchayat, after his disqualification or inability has ceased, shall be eligible to become a member of the village panchayat again, on the lines of section 18 (*2*) of the Bombay District Municipal Act, 1901, and section 29 of the Bombay Municipal Boroughs Act, 1925.

*Clause 3.*—It is proposed to amend section 58A of the Bombay Village Panchayats Act, 1933, in order to make it consistent with the provisions of sub-section (*2*) of section 106 of the Act.

*Clause 4.*—It is proposed to amend sub-section (*1*) of section 99 of the said Act to empower the Collector to suspend the execution of an unlawful resolution passed by a village panchayat on the lines of section 125(*1*) of the Bombay Local Boards Act, 1923, section 174(*1*) of the Bombay District Municipal Act, 1901, and section 214(*1*) of the Bombay Municipal Boroughs Act, 1925.

*Clause 5.*—If a new village panchayat body has taken office after its general elections and thereafter it is found that the new body has not been validly elected, the entire election has to be set aside. In such a case, a vacuum is created and there is no provision in the Act for constituting any authority to carry on the administration of the village panchayat during the interval between the date on which the illegally elected body is invalidated and the date on which a new body takes office after fresh general elections. It is therefore proposed to make necessary provision in the Act.

Dated the 30th May 1952. (Signed) M. P. PATIL.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 5th June 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

## L. A. BILL No. XVIII OF 1952.

*A Bill to amend the Bombay Village Panchayats Act, 1933.*

**(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)**

Bom. VI of 1933

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

**Short title.**

**1.** This Act may be called the Bombay Village Panchayats (Amendment) Act, 1952.

Bom. VI of 1933.

**Insertion of new section 22A in Bom. VI of 1933.**

**2.** After section 22 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

**Eligibility of certain members for re-election.**

"22A. A member of a panchayat whose appointment has been declared invalid under section 9A or whose office has become vacant under section 22 shall, if his disqualification or disability has ceased, be eligible for re-election."

**Amendment of section 58A of Bom. VI of 1933.**

**3.** In section 58A of the said Act, the words and figures "or a *nyaya panchayat* newly constituted on the dissolution of another *nyaya panchayat* under section 106," and the words "or at the date of such dissolution" shall be deleted.

**Amendment of section 99 of Bom. VI of 1933.**

**4.** In section 99 of the said Act, in sub-section (*1*), after the words "breach of the peace" the words "or is unlawful," shall be inserted.

Insertion of new section 106A in Bom. VI of 1933.

**5.** After section 106 of the said Act, the following section shall be inserted, namely :—

Powers and duties of panchayat or *nyaya panchayat* not validly constituted to be performed by person appointed by Government or by courts, as the case may be.

"106A. (*1*) (*a*) Notwithstanding anything contained in this Act or rules or bye-laws made thereunder, if at any time it shall appear to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the *Official Gazette*, cause all or any of the powers and duties of the panchayat to be exercised and performed by such person or persons, in such manner and for such period and subject to such conditions, as it may think fit.

(*b*) On the issue of such notification the *nyaya panchayat* already constituted out of such panchayat under sub-section (*1*) of section 37 shall be deemed to have been dissolved and the provisions of sub-section (*2*) of section 106 shall, so far as may be, apply in respect of suits, cases, proceedings or applications which may be pending before such *nyaya panchayat* on the date of the notification issued by the State Government under clause (*a*).

(*2*) All the powers and duties of the panchayat or *nyaya panchayat* exercised and performed *bona fide* till the date of the notification referred to in sub-section (*1*), by the persons who constituted such panchayat or *nyaya panchayat*, as the case may be, shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or called in question on the ground merely that they were not members of a validly constituted panchayat or *nyaya panchayat* and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts."

## STATEMENT OF OBJECTS AND REASONS.

*Clause 2.*—It is proposed to clarify the position in the Bombay Village Panchayats Act, 1933, that a member of a village panchayat, after his disqualification or inability has ceased, shall be eligible to become a member of the village panchayat again, on the lines of section 18 (*2*) of the Bombay District Municipal Act, 1901, and section 29 of the Bombay Municipal Boroughs Act, 1925.

*Clause 3.*—It is proposed to amend section 58A of the Bombay Village Panchayats Act, 1933, in order to make it consistent with the provisions of sub-section (*2*) of section 106 of the Act.

*Clause 4.*—It is proposed to amend sub-section (*1*) of section 99 of the said Act to empower the Collector to suspend the execution of an unlawful resolution passed by a village panchayat on the lines of section 125(*1*) of the Bombay Local Boards Act, 1923, section 174(*1*) of the Bombay District Municipal Act, 1901, and section 214(*1*) of the Bombay Municipal Boroughs Act, 1925.

*Clause 5.*—If a new village panchayat body has taken office after its general elections and thereafter it is found that the new body has not been validly elected, the entire election has to be set aside. In such a case, a vacuum is created and there is no provision in the Act for constituting any authority to carry on the administration of the village panchayat during the interval between the date on which the illegally elected body is invalidated and the date on which a new body takes office after fresh general elections. It is therefore proposed to make necessary provision in the Act.

Dated the 30th May 1952.

M. P. PATIL.

Government of Bombay

LEGAL DEPARTMENT

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[L. A. BILL No. XVIII OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)

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A Bill to amend the Bombay Village Panchayats Act, 1933.

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[Shri M. P. Patil, M.L.A.]

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BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

REGISTERED No. B-1.

The

# Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 8TH AUGUST 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV

**Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.**

CONTENTS.

PAGE

**BOMBAY ACT No. XIV OF 1952**—An Act to amend the Bombay Village Panchayats Act, 1933...55 56

The following Act of the Bombay Legislature having been assented to by the Governor on the 1st August 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

## BOMBAY ACT No. XIV OF 1952.

(*First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 8th August 1952.*)

An Act to amend the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

**1.** This Act may be called the Bombay Village Panchayats (Amendment) Act, 1952.

Bom. VI of 1933.

Insertion of new section 22A in Bom. VI of 1933.

**2.** After section 22 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

Eligibility of certain members for re-election.

"22A. A member of a panchayat whose appointment has been declared invalid under section 9A or whose office has become vacant under section 22 shall, if his disqualification or disability has ceased, be eligible for re-election."

Amendment of section 58A of Bom. VI of 1933.

**3.** In section 58A of the said Act, the words and figures "or a *nyaya panchayat* newly constituted on the dissolution of another *nyaya panchayat* under section 106," and the words "or at the date of such dissolution" shall be deleted.

Amendment of section 99 of Bom. VI of 1933.

**4.** In section 99 of the said Act, in sub-section (*1*), after the words "breach of the peace" the words "or is unlawful," shall be inserted.

Insertion of new section 106A in Bom. VI of 1933.

5. After section 106 of the said Act, the following section shall be inserted, namely :—

Powers and duties of panchayat or *nyaya panchayat* not validly constituted to be performed by person appointed by Government or by courts, as the case may be.

"106A. (*1*) (*a*) Notwithstanding anything contained in this Act or rules or bye-laws made thereunder, if at any time it shall appear to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the *Official Gazette*, cause all or any of the powers and duties of the panchayat to be exercised and performed by such person or persons, in such manner and for such period and subject to such conditions, as it may think fit.

(*b*) On the issue of such notification the *nyaya panchayat* already constituted out of such panchayat under sub-section (*1*) of section 37 shall be deemed to have been dissolved and the provisions of sub-section (*2*) of section 106 shall, so far as may be, apply in respect of suits, cases, proceedings or applications which may be pending before such *nyaya panchayat* on the date of the notification issued by the State Government under clause (*a*).

(*2*) All the powers and duties of the panchayat or *nyaya panchayat* exercised and performed *bona fide* till the date of the notification referred to in sub-section (*1*), by the persons who constituted such panchayat or *nyaya panchayat*, as the case may be, shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or called in question on the ground merely that they were not members of a validly constituted panchayat or *nyaya panchayat* and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts."

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.